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January 21, 2025

BY ECF

The Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

**Re: *United States v. Charlie Javice and Olivier Amar,*
23 Cr. 251 (AKH)**

Dear Judge Hellerstein:

We write respectfully on behalf of our client, Olivier Amar. We note that, in opposition to Charlie Javice's severance motion, the Government attempts to distinguish this case from *United States v. Shkreli*, 260 F. Supp. 3d 247 (E.D.N.Y. 2017), on the basis that, in *Shkreli*, co-defendant's counsel provided a declaration explaining how his anticipated defense would be antagonistic to and deprive Mr. Shkreli of a fair trial. ECF No. 216 at 11. As Ms. Javice noted in her severance motion papers, we are prepared to provide the Court—outside the presence of the Government and Ms. Javice and under seal—additional details regarding Mr. Amar's anticipated antagonistic defense. ECF No. 185 at 2 n.2; ECF No. 219 at 3 n.1.

If the Court determines that a declaration would be helpful in resolving the pending motion, we respectfully request that the Court order that it may be submitted *ex parte* and that it shall be maintained under seal, to avoid unfairly prejudicing Mr. Amar by previewing details of his anticipated defense to the Government or to Ms. Javice. *See, e.g., United States v. Gomez*, No. 17-cr-602 (JMF), 2018 WL 501607, at *3 n.2 (S.D.N.Y. Jan. 19, 2018) (granting defendants leave to file affirmation “*ex parte* and under seal because it discloses confidential and privileged possible defenses and strategies” (cleaned up)); *United States v. Daughtry*, No. 09-cr-1132 (DAB), 2011 WL 724668, at *4 (S.D.N.Y. Feb. 25, 2011) (considering *ex parte* letters from defense counsel related to antagonistic defense); *United States v. Runner*, No. 18-cr-0578 (JS), 2023 WL 3727532, at *8 (E.D.N.Y. May 30, 2023) (directing defendant to file letter *ex parte* and under seal advising court as to the scope of its defense); *see also* ECF No. 219 at 3 n.2 (collecting cases).

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Respectfully submitted,

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